

Criminal Procedure

The following are descriptions of the manner in which a case progresses through the criminal justice system. First is a description of the process for an adult criminal case followed by a description for a juvenile criminal case.

Pennsylvania Criminal Justice System

Pennsylvania Juvenile Justice System

Court Structure

Pennsylvania Criminal Justice System

CRIME COMMITTED

POLICE NOTIFIED

INVESTIGATION BEGINS

Investigation may include interviewing the victim, witnesses and/or suspects; collecting physical evidence; visiting, viewing, photographing and/or measuring the crime scene; identifying suspects through photo arrays or line-ups, etc.

POLICE FILE COMPLAINT

After an alleged crime is investigated, the police initiate the criminal process by filing a complaint with the district justice or by making a warrantless arrest followed by the filing of a complaint. The complaint identifies the defendant, lists the crimes charged and contains a brief factual summary upon which the charges are based.

PRIVATE COMPLAINT FILED

If the police decline to file a complaint, a private person is permitted to file a private complaint. A private criminal complaint must first be approved by the District Attorney before it can proceed. Once approved, the process is the same as if the complaint had been filed by a police officer.

SUMMONS OR ARREST WARRANT ISSUED

Once the complaint is filed, the presence of the defendant is secured voluntarily by summons, or compelled by arrest. The district justice will issue either a summons or a warrant of arrest, depending on the seriousness of the offense alleged. Less serious cases proceed with the issuance of a summons which provides notice of the defendant's scheduled preliminary hearing.

PRELIMINARY ARRAIGNMENT

If a warrant of arrest is issued, or if the process was initiated by a warrantless arrest, the defendant must appear before the district justice for a preliminary arraignment. At this proceeding the defendant is provided with a copy of the complaint and advised of his rights. A preliminary hearing is scheduled not less than three days but not more than ten days following preliminary arraignment.

PRELIMINARY HEARING

The preliminary hearing is also convened before a district justice. At the preliminary hearing the Commonwealth is required to present a prima facie case or, in other words, evidence that a crime has been committed and that the defendant is probably the perpetrator of that crime. Generally, in Franklin County all preliminary hearings are held at the Courthouse during Central Court. The Commonwealth is represented by the District Attorney's Office. If a prima facie case is presented, the case will be held for court. If a prima facie case is not presented, the defendant should be discharged.

INFORMATION FILED

After holding a case for court, the district justice will send notice to the county clerk of courts who in turn will notify the District Attorney. The District Attorney's Office will then file a formal charging document, called an "information," with the clerk of courts. The information will specify in particular counts the offenses charged against the defendant. At this stage, the District Attorney may exercise discretion and terminate the prosecution by declining to file an information or by adding or deleting charges.

FORMAL ARRAIGNMENT

The next proceeding is the formal arraignment. The defendant is provided with a copy of the information and advised of his rights, including his rights to file various pretrial pleadings. All pretrial motions, including requests for a bill of particulars and discovery, and motions for continuance, severance or joinder, suppression, etc., should be filed within thirty days after the formal arraignment. It is the obligation of the District Attorney's Office to respond to the defendant's pretrial pleadings.

CALL OF THE CRIMINAL TRIAL LIST

The next step is Call of the Criminal Trial List. At least two weeks prior to the beginning of the next criminal trial term each defendant and their attorney must appear for Call of the Criminal Trial List. At this appearance the Court will entertain motions, pleas, and any other appropriate matters. Defendants whose cases are not disposed of on that date will be required to appear for jury selection on the first day of the trial term. Defendants who are incarcerated will appear in the Courtroom at the Franklin County Jail on the Friday Call of the List date and defendants who are on bond will appear at the Franklin County Courthouse on the Monday Call of the List date.

PRETRIAL CONFERENCE

The next step is the pretrial conference. Once it is determined that there is a likelihood of a case proceeding to trial it is scheduled for a pretrial conference. Pretrial conferences are held the Thursday prior to the trial terms Jury Selection day. Once the matter has been scheduled for trial, no plea agreement will be accepted by the court, except in extraordinary circumstances.

TRIAL

A defendant entering a plea of not guilty may choose to be tried by a jury of twelve citizens or by the judge alone. At trial, the case for the Commonwealth is presented by an Assistant District Attorney who must establish the defendant's guilt beyond a reasonable doubt. The defendant is under no obligation to present evidence or testimony but may do so if he wishes. If tried by a jury, the jury must return a unanimous verdict; if tried non-jury, the judge must return the verdict. If a defendant is found not guilty, he will be immediately discharged. If the defendant is found guilty, the Court will generally schedule sentencing at a future date to allow a pre-sentence investigation report be completed.

JURY SELECTION PROCESS:

- Residents of Franklin County are randomly selected and are summoned to the Courthouse as potential jurors.
- A blind draw selects a pool of people from that group.
- The judge, prosecutor and defense attorney question the jurors about their backgrounds and beliefs. This is called voir dire.
- The attorneys are permitted a limited number of "peremptory" challenges to various jurors and an unlimited number of challenges for good cause. The number of peremptory challenges depends on whether the defendant is charged with a misdemeanor, felony or homicide.
- After twelve acceptable jurors are selected, the jurors are given instructions about when and where to report for jury duty.

JURY TRIAL:

- The judge gives preliminary instructions to the jury and the jury members are sworn.
- The prosecutor gives an opening statement to outline his case and evidence to the jury.
- The defense may give a similar opening statement, or wait until later in the trial.
- The prosecutor calls witnesses, after which the defense may cross-examine the witnesses. The prosecutor then rests the Commonwealth's case.
- The defense may call witnesses, if it wants, and the prosecutor may cross-examine the defense witnesses. The defense then rests its case.
- The defense attorney presents a closing argument to the jury followed by the prosecutor's closing argument.
- The judge gives the jury detailed legal instructions about the charged crimes then the jury is released to deliberate until a unanimous verdict is reached.

NON-JURY TRIAL

Here is a general outline of the steps in a non-jury trial:

- The prosecutor calls his witnesses, after which the defense may cross-examine the witnesses. The Prosecutor then rests the Commonwealth's case.
- The defense may call witnesses, if it wants, and the prosecutor may cross-examine the defense witnesses. The defense then rests its case.
- The defense attorney presents a closing argument followed by the prosecutor's closing argument.
- The judge returns a verdict.

GUILTY PLEA

A defendant may choose to waive his right to a trial and enter a plea of guilty, which admits his guilt of the crimes charged. If a defendant elects to plead guilty, a plea date will be scheduled, at which time it will be determined that the defendant is knowingly and voluntarily entering a plea of guilty to the charges against him. An Assistant District Attorney will appear at the guilty plea hearing and represent the Commonwealth. Once the judge accepts the plea the Court will generally schedule sentencing at a future date to allow a pre-sentence investigation report be completed.

PRESENTENCE INVESTIGATION

The court's probation department prepares a report for the judge summarizing the crime, and the defendant's personal and criminal backgrounds. Generally, the victim is contacted for a statement.

SENTENCING

Sentencing in Pennsylvania varies with the crime and is dependant upon the defendant's prior record. Most often, sentences are at the judge's discretion; however, in Pennsylvania there are a number of mandatory minimum sentences that must be imposed if a defendant is convicted of a specified crime. The judge will also consult the "sentencing guidelines" (established by the Pennsylvania Commission on Sentencing as a reference for framing an appropriate sentence throughout the state, considering factors of the crime and the defendant's criminal background) to determine the minimum jail/prison sentence.

APPEAL

Once sentenced, the defendant has a choice of seeking review in the trial court or through an appeal to an intermediate appellate court, called the Superior Court of Pennsylvania. If review is first sought in the trial court and denied, the defendant may then appeal to the Superior Court. If the defendant's appeal to the Superior Court is unsuccessful, the defendant has a discretionary appeal to the Supreme Court of Pennsylvania. The District Attorney's Office will answer the defendant's appeal by filing the appropriate responsive pleading.

Pennsylvania Juvenile Justice System

CRIME COMMITTED

PETITION IN DELINQUENCY FILED

ARREST

Following an arrest with no detention the Franklin County Juvenile Probation Department will meet with the juvenile and schedule the next hearing. If the arrest results in a detention a detention hearing will be held within 72 hours before a judge to determine if the juvenile should remain detained pending the outcome of the case.

TYPES OF HEARINGS:

- *Consent Decree:* A consent decree is an order by the Court that places the juvenile under the supervision of the Franklin County Juvenile Probation Department. If the Juvenile fails to abide by the restrictions imposed it may result in the juvenile being brought back in for an adjudication hearing.
- *Adjudication Hearing:* An adjudication hearing is a proceeding where it is determined if the juvenile committed the offenses for which he has been charged. It is similar to a criminal trial, except there is no jury.
- *Disposition Hearing:* A disposition hearing is the proceeding where it is determined what is to be done with the juvenile. It is similar to a sentencing in a criminal case.

POSSIBLE OUTCOMES:

- *Dismissal:* A dismissal would be the outcome if the Court determines that there is insufficient evidence presented by the Commonwealth to show that the crime was committed or that the juvenile committed the crime.
- *Probation:* Probation requires the juvenile to adhere to specific terms and conditions imposed by the Court. It also requires supervision by the Franklin County Juvenile Probation Department.
- *Commitment:* Commitment can be imposed by the Court depending upon the severity and circumstances of the crime committed. It requires the juvenile to be committed to a treatment or detention facility.

Court Structure

